

**REMARKS**

Applicants submitted a response to the final office action on July 15, 2011. Applicants' attorney spoke telephonically with Examiner Russell as detailed in the Summary of the Interview. Examiner Russell indicated in his voicemail to Applicants' Attorney that several defects in the response needed to be corrected and the amendment as submitted would not be entered. The present supplemental amendment is filed in response to incorporate the changes indicated by the Examiner as needing correction for allowance.

Claims 1-19 are pending. Claims 1, 3, 10, and 12 were previously amended in the previous response of 7/15/11. Those amendments which were not entered are reiterated here in the current amendments to enable the Examiner to review all proposed amendments together. Thus, claims 1, 3, 4, 8, 9 and 12 are currently amended. The amendments made to the drawings and specification are repeated in this supplemental amendment as the previously presented amendments were not entered.

Claim 3 was withdrawn however it has been currently amended as it was indicated it would be allowed if rewritten. Claims 5-7, and 10 are cancelled without prejudice. Claims 17-19 are cancelled without prejudice as required by the final rejection. Applicants retain the right to submit the subject matter in the cancelled claims in future filed applications. Support for the amendments to claim 1 and 3 can be found at paragraph [064] of the specification. Support for the amendments to claims 4, 8, and 9 are found in the originally filed claims and paragraph [011]. The amendment to claim 12 is to correct a simple typographical error.

Applicants thank the Examiner for allowing Claims 11 and 13-16 and indicating the Claims 3 and 12 would also be allowable if rewritten.

Figure 1A has been changed to delete the superscript characters which originally appeared in SEQ ID NO: 18 as objected to by the Examiner. The Sequence Listing submitted on 7/15/11 also was corrected to remove the noroleucine residues added inadvertently.

Table 1 has been changed to modify the entry for SEQ ID NO:25 so that it ambiguously contains 20 residues in accordance with the Sequence Listing.

### **Objection to Drawing:**

Figure 1A, SEQ ID NO:18 was objected to because the meaning of three superscript “<sup>N</sup>” was not explained in the specification. The drawing has been changed and the three “<sup>N</sup>” subscripts have been deleted as objected to by the Examiner. As Applicants stated in the previous 12/1/10 response, the subscript does not indicate the presence of asparagine residues as suggested by the Examiner on page 5 of the office action. The sequence in Fig. 1A matches that of SEQ ID NO:18 which is correctly provided in paragraph [011] on page 4 of the specification, and thus no new matter has been introduced by the replacement sheet. Applicants submit that the amended Figures and specification are responsive to the Examiner’s concerns.

Applicants’ inadvertently submitted an erroneous Sequence Listing on 7/15/11 which added three noroleucine residues to SEQ ID NO:18. The presently supplied Sequence Listing corrects and replaces the prior submitted Sequence Listing. The three noroleucine residues in SEQ ID NO:18 have been removed.

### **Objection under 37 CFR 1.821 – 1.825**

SEQ ID NO:25 was objected to for having fewer amino residues in Table 1 of the specification than was recited in the Sequence Listing. Table 1 has been changed to modify the entry for SEQ ID NO:25 so that it ambiguously contains 20 residues in accordance with the Sequence Listing. Given the proposed changes to Table 1 of the specification, Applicants request that this objection be withdrawn.

SEQ ID NO:25 was also objected to because the consensus sequence did not appear to coincide with the aligned SEQ ID NOS:1-8 and 19-21 as set forth in Table 1 of the specification. SEQ ID NO:25 has been amended in the accompanying substitute Sequence Listing. Position 5

includes Ile as a possible variation and position 6 has been modified to include Thr as a possible variation and not Tyr.

Furthermore, the first listed definition positions 9 and 16 have been removed from the sequence listing. Applicants believe that the errors noted by the STIC have been fixed. A paper copy of this revised Sequence Listing is also attached and replaces the previous submitted Sequence Listing submitted on December 1, 2010. Applicants request that this Sequence Listing be entered into the Specification. Applicants hereby certify that the computer readable version and the paper copy of the Sequence Listing are the same and include no new matter. In light of the amendments to the Sequence Listing, Applicants request that this objection be withdrawn.

### **Objections to Alleged Informalities in Table 1**

The Examiner objects on page 6 of the Office Action to the alleged use of two hyphens between the position numbers for SEQ ID NOS:5-8. The Examiner appears to have misapprehended editorial markings in the amended Table 1 that Applicants' provided with their response on December 1, 2010. The initial "hyphen" for these SEQ ID NOS was struck through in the December 1 response because they were actually extra long dashes. A short hyphen was put in their place so that these entries would conform to the rest of the table.

It is possible that, because the strikethrough marks overlaid the dashes, the Examiner believed that hyphens were being added to, rather than replacing the previous marks. Applicants hope that these remarks have clarified the issue, and have presented changes to Table 1 in this response as though the edits in the December 1, 2010 response were understood as intended.

### **Objections to Alleged Informalities in the Claims**

The Examiner objected to alleged informalities in Claims 3, 10, and 12. Claim 3 is amended such that it is consistent with the terminology used in Claim 1. Claim 10 is cancelled. Claim 12 is amended to correct a minor typographical error at line 11. Applicants believe these amendments moot the objections and request that the claims be allowed.

### **Rejection Under §102(a) and/or 102(e)**

Claims 1,2, and 4-10 are rejected under 35 U.S.C. 102(a) and/or 102(e) as being anticipated by Liu et al. (U.S. Patent Application Publication 2003/0034888). According to MPEP § 2131.02 , “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, (Fed. Cir. 1987)). “[T]here must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention.” *Scripps Clinic & Research Found. v. Genentech, Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991).

Applicants respectfully disagree with the Examiner’s rejection but solely in the interest of expediting prosecution, amend Claim 1 by incorporating the claim element of Claim 3 which was not rejected over the cited reference. Claim 1 is currently amended and limited to a polypeptide sequence 20 amino acid residues or less. Liu et al. recites a 97 residue long polypeptide that may have use in the production of transgenic plants. In light of Applicants’ amended claims, the cited reference fails to anticipate these claims under 35 U.S.C. §103(a). As such, the Applicants respectfully request that the Examiner withdraw this rejection.

Claims 5-7 and 10 have been cancelled thus obviating the rejection. Claims 4, 8 and 9 have been amended to depend from Claim 1. Thus, since Claim 1 as currently amended should be found allowable, the dependent claims 4, 8 and 9 should be found allowable as well. Applicants request that rejection be withdrawn and submit that the amendments to the claims overcome the rejection.

### **CONCLUSION**

No new matter is believed to be added by the amendments to the specification, drawings and claims. Applicants believe these amendments place the application and claims in the form

for allowance. The PTO is also hereby authorized to charge any necessary and additional fees that may be due to Deposit Account No. 12-0690. In furtherance of prosecution, the Examiner is invited to call the undersigned to discuss the application and its claims.

Respectfully submitted,

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